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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/709,492      | 05/10/2004  | Lalit A. Patel       |                     | 3491             |

43959 7590 01/10/2006

LALIT A. PATEL  
17355 EAST VIEW DRIVE  
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| EXAMINER |
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BROWN, MICHAEL A

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| ART UNIT | PAPER NUMBER |
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3764

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PLH

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/709,492 | <b>Applicant(s)</b><br>PATEL, LALIT A. |  |
|                              | <b>Examiner</b><br>Michael Brown     | <b>Art Unit</b><br>3764                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

**Note: This action was not made a final rejection because the first office action didn't include a rejection of the claims on the merit.**

### ***Specification***

The disclosure is objected to under 37 CFR 1.71, as being so incomprehensible as to preclude a reasonable search of the prior art by the examiner. For example, the following items are not understood: How fluid flows into the buccal when there are no apertures in the enclosure to permit fluid to flow outward; a mechanism to automatically move fluid inside of the buccal cavity, a mechanism to automate the process of rinsing and washing the buccal cavity, fluid flowing through one pipe to two different tanks and how the motor draws fluid into the buccal and how the motor removes fluid from the buccal.

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

### ***Claim Rejections - 35 USC § 112***

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. How the fluid flows from the enclosure to the user's mouth is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188

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USPQ 356 (CCPA 1976). The device is enabled because the disclosure doesn't disclose or teach how the fluid flows out of the enclosure and into the user's mouth. The disclosure fails to disclose or suggest how the fluid flows through the pipes (Pi and Po) and into different tanks.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to provide support for the mechanism to automatically move fluid inside of the buccal cavity. The specification fails to provide support for a mechanism to automate the process of rinsing and washing the buccal cavity. The specification fails to teach how the fluid flows out of the enclosure and into the buccal.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is not clear as to what the mechanism to automatically move fluid inside of the buccal cavity is in reference to. In claim 1, it is not clear as to what the mechanism to automate the process of rinsing and washing the buccal cavity is in reference to. In claim 1, it is not clear how the input tank supplies fluid to the motor.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanism to automatically move fluid inside of the buccal cavity and the mechanism to automate the process of rinsing and washing the buccal cavity must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The words recited at the bottom of each page of the drawings must be removed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Higgins.

Evans discloses in figures 1-4 a buccal cavity washer for a buccal cavity comprising an enclosure 30, a motor (pump 130), to move fluid and particles, an input tank (fluid that flows through pipe 120 comes from a reservoir which is being interpreted as a tank), , mechanism (the pump 130) to automatically moved fluid as recited in claim 2, a process of rinsing and washing the buccal cavity (col. 5, lines 27-31), as recited in claim 3, a first pipe 120 and a second pipe 99. However, Evans doesn't disclose an output tank or the enclosure being bi-directional. Higgins teaches in figures 1-3 a bi-direction valve that is connected to an input tank (the facet that 60 is attached thereto) and an output tank 50. The fluid flows in a bi-direction in the device (abstract, last two lines). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the bi-directional valve as taught by Higgins could be

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substituted for the one-way concept of delivering fluid disclosed by Evans in order to allow the fluid to flow bi-directional from the input tank and into the buccal cavity and out of the buccal cavity and into the output tank.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Abahusayn discloses a buccal cavity washer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gergory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown  
January 4, 2005



MICHAEL A. BROWN  
PRIMARY EXAMINER